

ORDER NO. 50

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;  
Mark Acton, Vice Chairman;  
Ruth Y. Goldway; and  
Tony Hammond

Review of Nonpostal Services

Docket No. MC2008-1

NOTICE AND ORDER CONCERNING  
REVIEW OF NONPOSTAL SERVICES

(Issued December 20, 2007)

The Postal Accountability and Enhancement Act (PAEA), Pub. L. No. 109-435, 120 stat. 3198 (December 20, 2006), amends the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, by, among other things, limiting the Postal Service's authority to provide nonpostal services to those it offered as of January 1, 2006. 39 U.S.C. 404(e)(2). The term "nonpostal service" is defined in section 404(e)(1) as "any service that is not a postal service defined under section 102(5)[,]" which defines the term "postal service" to mean "the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto[.]" *Id.* at § 102(5).

Section 404(e)(3) directs the Commission to review each nonpostal service offered by the Postal Service on the date of the PAEA's enactment, December 20, 2006, within two years of that date. The purpose of the review is to determine which nonpostal services should continue, taking into account the public need for the service and the private sector's ability to meet that need. Any nonpostal service that the

Commission concludes should not continue shall terminate. Section 404(e)(4). Finally, for any nonpostal service that it concludes should continue, the Commission “shall designate whether the service shall be regulated under this title as a market dominant product, a competitive product, or an experimental product.” Section 404(e)(5).

The Commission is initiating this docket to fulfill its responsibilities under section 404(e).<sup>1</sup> To develop a record on which to base its findings, the Commission adopts the following procedural schedule:

1. By no later than March 19, 2008, the Postal Service shall, in the form of a sworn statement, identify and provide a complete description of each nonpostal service offered by the Postal Service on the date of enactment of the PAEA.<sup>2</sup> The description shall include the current status of each nonpostal service and the Postal Service’s proposed classification of each such service, *i.e.*, as a market dominant, competitive, or experimental product. The foregoing shall be accompanied by a sworn statement from a knowledgeable person (or persons) addressing the public need for each service and such other matters, if any, the Postal Service deems relevant (collectively, Postal Service statement).
2. By no later than April 30, 2008, any interested person (party) may respond to the Postal Service statement by submitting a sworn statement from a knowledgeable person (or persons) addressing, at a minimum, the ability of the private sector to meet the public need for any nonpostal service that the party asserts should not be offered by the Postal Service (party’s

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<sup>1</sup> As a result of this proceeding, the Commission will classify nonpostal services it determines should continue as either market dominant, competitive, or experimental products and will include those services in the Mail Classification Schedule. See 39 CFR § 3020.13. Section 3642 of title 39 provides for adding to, removing from, or transferring products between the lists. Accordingly, because this proceeding has potential Mail Classification Schedule implications, the Commission is adopting the MC docket designation.

<sup>2</sup> If the services identified differ from the nonpostal services offered as of January 1, 2006, the Postal Service shall identify those services no longer offered, provide a brief description of such services, and indicate their current status.

statement). A party may also address such other matters, if any, the party deems relevant.

3. By no later than May 21, 2008, the Postal Service and any interested person may submit a reply to any party's statement. Such reply shall be in the form of a sworn statement by a knowledgeable person (or persons).<sup>3</sup>
4. Initial briefs are due no later than June 18, 2008. Reply briefs may be filed and are due no later than July 2, 2008.

Section 505 of title 39 requires the designation of an officer of the Commission in all public proceedings to represent the interests of the general public. The Commission hereby designates Robert Sidman to serve as the Public Representative, representing the interests of the general public. Pursuant to this designation, he will direct the activities of Commission personnel assigned to assist him and, will, upon request, provide their names for the record. Neither Mr. Sidman nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

*It is ordered:*

1. Docket No. MC2008-1 is established for the purpose of developing a record concerning nonpostal services offered by the Postal Service.
2. The procedural schedule set forth in the body of this Order is adopted.

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<sup>3</sup> Any party, including the Postal Service, may submit legal memoranda on matters at issue at any time prior to May 21, 2008.

3. Robert Sidman is designated as the Public Representative, representing the interests of the general public in this proceeding.
4. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Garry J. Sikora  
Acting Secretary